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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,089	11/17/2003	Viorel Berlovan	27475/05431	3250
7590	11/16/2004			
Joel H. Bock Cook, Alex, McFarron, Manzo, Cummings & Mehler, Ltd. 200 West Adams Street, Suite 2850 Chicago, IL 60606				
EXAMINER PRUNNER, KATHLEEN J				
ART UNIT		PAPER NUMBER		
3751				
DATE MAILED: 11/16/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/715,089

Applicant(s)

BERLOVAN ET AL.

Examiner

Kathleen J. Prunner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-20 is/are allowed.
- 6) ☒ Claim(s) 1-3, 21 and 24-30 is/are rejected.
- 7) ☒ Claim(s) 4-10, 22 and 23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 111703.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION***Drawings***

1. The drawings are objected to because: (A) in Figs. 3 and 4, the angled lines bordering the figures are confusing; if bracketing is intended by such angled lines, then a proper bracket, }, should be used. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character “78” has been used to designate both holes (note Fig. 4 and line 5 of ¶ 0029) and a receiving socket (note Fig. 3 and line 10 of ¶ 0029). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required

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corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. In addition to Replacement Sheets containing the corrected drawing figure(s), applicant is required to submit a marked-up copy of each Replacement Sheet including annotations indicating the changes made to the previous version. The marked-up copy must be clearly labeled as "Annotated Marked-up Drawings" and must be presented in the amendment or remarks section that explains the change(s) to the drawings. See 37 CFR 1.121(d). Failure to timely submit the proposed drawing and marked-up copy will result in the abandonment of the application.

Specification

4. The following informalities in the specification are noted: (A) on line 8 of ¶ 0027, "34" should read --36--; (B) on line 2 of ¶ 0033, a comma should be inserted after "i.e."; and (C) on line 2 of ¶ 0037, "one or more apparatus" needs clarification since it is unclear as to what is intended thereby. Appropriate correction is required.

5. The following informalities in the claims are noted: (A) in claim 1, on line 8, "a toilet" should read --the toilet--; (B) in claim 11, on line 5, "a toilet" should read --the toilet--; (C) in claim 25, on line 1, --the-- should be inserted before "catch"; and (D) in claim 29, on line 6, --and-- should be inserted after the semi-colon. Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the first paragraph of 35 U.S.C. 112: The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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7. Claims 26-28 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for “A pair of flanges or wings extends from the sides of the seating ring, and may further include mounting openings for armrests and/or handles and for a utility basket” (note lines 3-5 in ¶ 0009 on page 3), “a pair of arm rests, shown in Fig. 1 at 110. The arm rests have upright legs 112 with pegs ... can be mounted in receptacle 116 (Fig. 5) that are formed in the flanges 90, 92” (note lines 4-7 in ¶ 0033 on page 8) and “the flanges 90, 92 each have a further central socket 118 that can receive a mounting bracket of an optional auxiliary basket 120” (note lines 1-2 in ¶ 0034 on page 9), does not reasonably provide enablement for the wings to further contain openings for attachment of “an external apparatus”, as called for by claim 26. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims.

8. Claims 29 and 30 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claims contain subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claim 29 calls for a method of installing an elevated toilet seat comprising the steps of: a. removing the standard toilet seat from the toilet; b. attaching to the upper rim of the toilet bowl a mounting bracket having a first attachment element; and c. engaging the second attachment element with the first attachment element and pushing the elevated toilet seat toward the mounting bracket. Claim 30 calls for the method to further comprise the step of re-attaching the standard toilet seat to the mounting bracket. However, the originally filed specification fails to describe or support a method of installing an elevated toilet seat in commensurate with these claims.

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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10. Claims 2 and 3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
11. Claim 2 contains a term lacking proper antecedent basis. The claim recites the limitation "the first" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

13. Claims 1-3, 21, 24-27, 29 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Ellis. Ellis discloses an elevated toilet seat assembly, which is mountable on a toilet bowl 10 having an upper rim 12, having all the claimed features including a mounting bracket (constituted by seat fixing bar assembly 30) having a base portion 31 connectable to the toilet bowl 10 (note lines 26-30 and 39-41 in col. 3), at least one end portion (constituted by the end portions adjacent the projections 39, note Fig. 5) attached to the base portion 31 (note Fig. 5) and extending beyond the perimeter of the upper rim 12 (note lines 34-37 in col. 3 and Figs. 2-4) when the mounting bracket 30 is attached to a toilet bowl 10; and a first attachment element (constituted by projections 39) connected to the end portion of the mounting bracket 30; and a seating ring (constituted by the raised toilet seat 40) including a riser (constituted by wall 50, note Fig. 2) engageable with the upper rim 12 of the toilet bowl 10 (note lines 13-16 in col. 4) and a second attachment element (constituted by mounting sections 72, 74) releasably engageable with the first attachment element 39 (note Fig. 4). With respect to claim 2, Ellis also discloses that the mounting bracket 30 has a second end portion attached to the base portion 31 opposite the at least one portion, two first attachment elements 39 connected to the first and second end portions, and two second attachment elements 72, 74 formed on the seating ring 40

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which releasably engageable with the first attachment elements 39 (note Fig. 4). With respect to claim 3, Ellis further discloses that the first attachment elements 39 are spaced apart from one another sufficiently to provide access to the base portion 31 for attachment of a standard toilet seat (note lines 43-46 in col. 2). With regard to claim 21, Ellis discloses an elevated toilet seat, which is in removable engagement (note lines 48-53 in col. 4) with a toilet bowl 10 having an upper rim 12, having all the claimed features including a mounting bracket (constituted by seat fixing bar assembly 30) removably attachable (via bolts 22 and apertures 31a, note lines 39-41 in col. 3) to the toilet bowl 10 and including a first attachment element (constituted by projections 39); and a seating ring (constituted by the raised toilet seat 40) including a riser (constituted by wall 50, note Fig. 2), a second attachment element (constituted by mounting sections 72, 74), and a pair of wings (constituted by the outwardly extending areas connected to the arm supports 60, 62, note Fig. 4) extending from the sides of the seating ring 40 (note Fig. 4), the first attachment element 39 being releasably engageable with the second attachment element 72, 74 (note Fig. 4). With regard to claim 24, Ellis further discloses that the second attachment element 72, 74 includes a receptacle and a pocket (constituted by the depressions or recessions 79) which inherently define a catch therebetween. With regard to claim 25, Ellis additionally discloses that the catch comprises a lip (constituted by the inwardly extending portions of flanges 76, note Fig. 4) on the underside thereof. With respect to claim 26, Ellis also discloses arm supports 60, 62 that can be either molded integrally with the seat 40 (note lines 55-58 in col. 3) or formed as separate members fixed to the seat by bolting or riveting (note lines 22-26 in col. 5). With regard to claims 26 and 27, it is considered that the wings of Ellis would inherently contain openings for attachment of the arm supports or rests when the arm rests are formed of separate members fixed to the seat by bolting or riveting. With respect to claim 29, Ellis inherently discloses a method of installing an elevated or raised toilet seat having a seating ring with a second attachment element formed thereon on a toilet bowl having an upper rim and a standard toilet seat, comprising the steps of: removing the standard toilet seat from the toilet (note lines 13-25 in col. 3); attaching to the upper rim of the toilet bowl a mounting bracket having a first attachment element (note lines

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26-41 in col. 3); and engaging the second attachment element with the first attachment element and pushing the elevated toilet seat toward the mounting bracket (note lines 3-21 in col. 4). With respect to claim 30, Ellis further discloses that the method further comprises the step of re-attaching the standard toilet seat to the mounting bracket (note lines 41-45 in col. 3).

Allowable Subject Matter

14. Claims 4-10, 22 and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if claims 4 and 22 were rewritten in independent form including all of the limitations of the base claim and any intervening claims.

15. Claims 11-20 are allowed.

16. Claim 28 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 1st paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

17. The prior art made of record and not relied upon is considered pertinent to applicants' disclosure. Janes is cited to show a removable toilet seat and lid utilizing cooperating clip members constituting a latch mechanism.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Kathleen J. Prunner whose telephone number is 703-306-9044. In mid to late November, 2004, the examiner's office will move to the new complex in Alexandria, Virginia. Upon moving to the new complex, the examiner's new telephone number will be 571-272-4894.

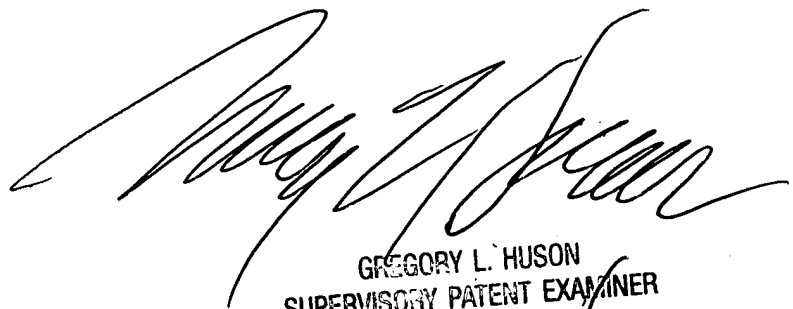
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19. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kathleen J. Prunner

November 12, 2004



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